



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

TO: Barry E. Hill, Director, Office of Environmental Justice ("OEJ")
Office of Enforcement and Compliance Assurance ("OECA")

FROM: Theodore J. Kim, Legal Counsel, OEJ/OECA /s/ *Ted Kim*

DATE: May 11, 2006

RE: "Environmental Justice in the News" for the Week Ending May 12, 2006

This memorandum summarizes select environmental justice news actions for the period beginning April 28, 2006 through the week ending May 12, 2006. The summary is limited to Lexis/Nexis searches conducted using the query: "(environment! w/2 (justice or racism or equity or disproportionate or disparate)) or (environment! w/25 minorit! or low***income) or (executive order 12898) or (civil right! w/25 environmental) or ("fair housing act" w/25 (environment! or zon!))." Please note that multiple articles covering the same topic were not included. Similarly, articles on international or foreign-based environmental justice issues were not included, unless they specifically pertained to the United States.

1. **News Items.**

The following news was particularly noteworthy:

- **"Oil Industry Warns Climate Bill May Slash Fuel Production in State," Inside Cal/EPA (May 5, 2006).** According to the article, representatives from the petroleum industry are warning California's Governor and legislators that passage of Assembly Bill 32, which would establish a greenhouse gas ("GHG") emissions cap on industrial facilities, may lead its refiners to slash gasoline and diesel production in the State, which would detrimentally impact the State's economy and consumers. Under the cap, "a limit would be placed on the total carbon content of oil, gas, and coal consumed in the State. Annual carbon allowances would be given to the relevant industries; if these limits were reached, facilities would have to take certain actions to restrain distribution." The article noted that other options exist; however, it stated that the cap proposal was more likely "instead of a trading or offset program strategy, based on pressure from environmental justice advocates, who argue trading or

offsets will lead to more pollution in poorer areas.” Environmentalists supporting the Bill believe that the oil industry’s predictions are unfounded and alarmist and do not see any evidence to support these predictions. California’s Senate Environmental Quality Committee will hear Assembly Bill 32 in late May or early June. In addition, Governor Arnold Schwarzenegger is attempting to work with Democrats on compromise language prior to the time both houses vote on the Bill.

- **“Residents Upset With Feds’ Sludge Site Report,” NorthJersey.com (May 4, 2006).** According to the article, Region II of the United States Environmental Protection Agency (“EPA”) issued a draft report on May 3, 2006 entitled, “Environmental Justice Assessment for the Ringwood Mines/Landfill Area (Passaic County, New Jersey)” (“Report”). The Report asserted that Ford Motor Company contaminated its former plant in Mahwah, New Jersey by dumping tons of plant sludge and other industrial waste, which adversely affected a surrounding neighborhood. However, a group of legislators, environmentalists, and attorneys representing the residents, asserted that the Report, although representing a “good stepping stone,” “fell short of saying that dumping and incomplete cleanups have unduly burdened the community, mostly made up of Ramapough Mountain Indians.” In addition, the group was perturbed that the Report “never address[ed] the initial question: Was the minority community targeted because it had no political or financial power?” According to an unidentified EPA official, the “goal of the Environmental Justice Assessment was to determine whether the community has been affected more than other neighborhoods living with lingering contamination. The official said that was a difficult task, since there were no other communities living under the same conditions.” Previously, a State Task Force designated the community as an “Environmental Justice” area and acknowledged that “the minority neighborhood had not received an adequate cleanup, and recommended several changes . . . [including] placing the site back on the Superfund list.” However, the Report did not go as far as the State’s and, according to one critic, “doesn’t address the actual issues that the residents raised. . . . What the community wants to know is: Did the EPA fail the community because it is a low-income, minority community? Was discrimination an issue in the way the cleanup was done? I think the EPA carefully dances around that question.” EPA Region II will accept comments on the draft Report until June 30, 2006.
- **“Connecticut Citizens Receive Prestigious Regional Environmental Award,” States News Service (May 3, 2006).** The article set forth a press release from EPA that announced that EPA Region I would present Jane Stahl and the Connecticut Clean Diesel Plan Team with the 2005 Environmental Merit Awards (“Awards”). The Awards, which EPA has given out since 1970, recognize significant contributions to environmental awareness and problem solving, as well as honor individuals and groups who have demonstrated particular ingenuity and commitment in

preserving Region I's environment. The Lifetime Achievement Environmental Merit Award was given to Jane Stahl, the former Deputy Commissioner of the Connecticut Department of Environmental Protection. Among other achievements, the Award recognized Ms. Stahl's work in "enhancing the Agency's environmental justice program." The Local, State, or Federal Government Environmental Merit Award went to the Connecticut Clean Diesel Plan Team for their efforts in addressing problems that diesel exhaust cause, particularly in making people breathe "fine particles that aggravate heart and lung disease," which may lead to cardiovascular and respiratory symptoms, asthma or heart attacks, and bronchitis. As a result of their efforts, emissions in several communities that suffer disproportionately from air pollution impacts were reduced, which thereby addressed numerous environmental justice concerns.

- **"Maine Citizens and Two Groups Receive Prestigious Environmental Awards," States News Service (May 3, 2006).** The article set forth a press release from EPA that announced that EPA Region I would present one citizen from Maine and two Maine Groups with the 2005 Environmental Merit Awards ("Awards"). The Individual Environmental Award went to Anne D. Burt, the Environmental Justice Director for the Maine Council of Churches. Among her many accomplishments, Ms. Burt was recognized for her efforts in helping to reduce 2 million pounds of carbon dioxide emissions by having her congregations audit and reduce their energy use. The Local, State, or Federal Government Environmental Merit Award went to ThinkBlueMaine Partnership ("Partnership"), a group consisting of 28 municipalities responsible for meeting stormwater regulations, as well as the Soil and Water Conservation Districts, the Maine State Planning Office, the Maine Department of Environmental Protection, and the University of Maine Cooperative Extension. Among other things, the Partnership has helped inform people of how to change their behavior to reduce stormwater pollution. The Business, Industry, and Professional Organizations Environmental Merit Award went to Tom's of Maine, which was founded on the "central belief that a company can be financially successful while behaving in a socially responsible and environmentally sensitive manner." Included among the company's notable achievements was its increase in recycling to 200,000 pounds per year and elimination of production of 1.5 million pounds of carbon dioxide emissions annually.
- **"Riding School Buses Exposes Children to Cancer-Causing Toxins, Groups Warn; Lawsuit Filed," Ascribe Newswire (May 2, 2006).** According to the article, two environmental justice groups, Our Children's Earth Foundation and the Environmental Law Foundation, filed a lawsuit in San Francisco Superior Court on May 2, 2006 against Laidlaw Transit, Inc. ("Laidlaw") under California's Proposition 65. Specifically, the lawsuit alleged that Laidlaw exposed school children who rode its school buses "to cancer-causing diesel engine exhaust without a warning" in

violation of Proposition 65 and sought a court order to “provide warnings about the diesel engine exhaust” by the start of the next school year. Public health officials consider diesel engine exhaust to be a carcinogenic toxic air contaminant, which can exacerbate asthma and other respiratory illnesses.

- **“Katrina Pollution Causing Health Problems,” (NPR Radio Broadcast, May 2, 2006).** The article set forth a transcript of a radio program that Ed Gordon hosts. On the show, Mr. Gordon discussed the health problems of New Orleans’ residents that resulted from the heightened levels of pollution and hazardous wastes from Hurricane Katrina. Mr. Gordon spoke with Rachel Morello-Frosch, assistant professor from Brown’s Center for Environmental Studies, who confirmed that many environmental hazards remained in the City, which may potentially cause short-term and long-term respiratory effects. She further noted that “some anecdotal evidence suggests that we’re seeing increased mortality rates, post-Katrina, just based on looking at death notices in *The Times-Picayune*. Some of the short-term disease registries are suggesting some spikes in emergency hospitalizations for respiratory problems, among Hurricane Katrina evacuees. Suicide rates appear to be also up in the New Orleans region. So, we are starting to see sort of short-term acute effects from the impact of the hurricane in August.” Ms. Morello-Frosch further articulated that the extent of the toxics problem in New Orleans was becoming evident, such that “we are dealing with some pretty significant environmental hazards that are going to have to be addressed while reconstruction is happening – or else we could be conceivably creating a longer term disaster if we don’t remediate these environmental hazards now.” She concluded by pointing out the disparity in helping New Orleans’ rebuilding efforts compared to other coastal cities that were devastated and attributed the difference to the fact that “New Orleans is a predominantly African-American city, and I think that has to do with the legacy of environmental discrimination within the region.”
- **“Report Faults Post-Katrina Cleanup,” (NPR Radio Broadcast, May 2, 2006).** The article set forth a transcript of a radio program that Ed Gordon hosts. On the show, Mr. Gordon discussed the problem that the remaining waste and debris continues to cause in New Orleans. In citing a recent study, entitled “In the Wake of the Storm: Environment and Disaster and Race after Katrina” (“Report”), that the Russell Sage Foundation issued, he asserted that the “overall environment has been deeply compromised.” The Report discovered that “more than 42,000 tons of hazard waste remains on the ground, in mainly black neighborhoods.” In addition, the Report “suggests that the federal government has not made cleaning up these areas a priority.” To further discuss the Report, Mr. Gordon spoke with Dr. Beverly Wright, the Director of the Deep South Center for Environmental Justice at Dillard University, and Professor Robert Bullard, the Director of the

Environmental Justice Resource Center at Clark University. The discussion began with a recap of Mark Morial's comments on the situation. Mr. Morial, the Chief Executive Officer of the National Urban League and former Mayor of New Orleans, asserted that the "recovery has been so inadequate. . . . The future of the City is at stake. We could lose New Orleans, that's the truth." Dr. Wright agreed with Mr. Morial's statement and asserted that "the only way that change is going to occur is with a grassroots efforts." Professor Bullard further noted, "[t]here [was] a lot of contamination in many African-American communities, in terms of lead in housing, and lead in soil, before Katrina. There are many government agencies, including the Louisiana Department of Environmental Quality and [EPA], saying that because some neighborhoods were contaminated before, . . . they should not somehow be cleaned up. That is a formula for disaster." Dr. Wright then stated that "the race of people most affected by this storm [is] in fact African American. Eighty percent of African-Americans in the City of New Orleans lost everything, and the majority of African-Americans are still displaced. They have not returned. The majority of the people who have been able to return are Caucasian. So I would say that race is a salient factor in the issue of this particular storm and its recovery." Professor Bullard then added "that these issues are clearly environmental justice and health issues, and economic development issues, which, in some cases, pre-date Katrina. The fact [is] that African-American communities were treated differently before the storm. And at least the policies that are in place now, at least they are consistent. They're still being mistreated and treated differently."

- **"Wingate Landfill Activist Getting Honorary Degree From Law Center; Nova Southeastern's Shepard Broad Law Center Will Award Community Activist Leola McCoy an Honorary Degree on Sunday for Her Tireless Environmental Work," Miami Herald (May 1, 2006) at B1.** According to the article, Nova Southeastern University's Shepard Broad Law Center was scheduled to award Leola McCoy an honorary doctor of law degree on May 7, 2006 for her work as an environmental activist at the now-closed Wingate Landfill ("Landfill"). Ms. McCoy's work at the Landfill began in 1984 and continued for over 20 years. She urged federal, state, and local officials to remove toxins that remained at the Landfill, which is in a black community in Fort Lauderdale. She became an expert on the Landfill and on environmental justice. In addition, she has "continued to monitor the environmental well being of Broward County." Accordingly, the Law School sought to bestow her with an honor that is typically reserved for judges or American Bar Association Presidents.
- **"Green Group at U. Colorado Wants Green Campus," University Wire (May 1, 2006).** According to the article, the Director of the University of Colorado-Boulder's Environmental Center ("Center"), Dave

Newport, is attempting to solicit support of the Center's 2006 Blueprint for a Green Campus ("Blueprint"), which delineates an eco-friendly framework and contains numerous references to environmental justice. The Blueprint seeks to educate the campus on how to conserve and protect the environment, such as the quality of local water sources. In addition, the Blueprint "also used the aftermath of Hurricane Katrina to illustrate the need to bring social awareness more fully into environmental planning." Those who have read the Blueprint are particularly pleased with its inclusion of environmental justice issues.

- **"Speakers Spotlight Social Ties to Health," Rochester Democrat and Chronicle (N.Y. Apr. 29, 2006) at 1B.** According to the article, speakers at the fifth annual State of Fair Housing Conference on April 28, 2006 focused particular attention on environmental justice issues. The article noted that the emphasis on environmental justice stemmed from the fact that studies "have shown that people of lower income groups, black Americans and Hispanic Americans, are statistically more likely to live near polluting areas." Professor Robert Bullard reaffirmed this notion by stating that "[w]e know there is unequal protection . . . communities of color regardless of income, as well as low-income and working class communities, tend to host the industrial plants, the landfills, and the other undesirable developments, but lack amenities." Professor Bullard continued in asserting that environmental justice issues "are intimately connected to other social problems, such as access to education, transportation, and jobs." Professor Bullard, as well as other speakers, concluded that to effect a change, those at the grass-roots level must be involved and be able to articulate their views in every part of the decisionmaking process.
- **"Mira Loma: Protestors Target Truckers Using Rail Facility; Demonstrators Air Grievance; Railroad Says It Doesn't Control Drivers, Who Go Near School," Press Enterprise (CA Apr. 28, 2006) at B1.** According to the article, protestors rallied in front of the Union Pacific Railroad ("Union Pacific") facility on April 27, 2006 to voice their displeasure with the truck drivers that emit diesel exhaust when going to the facility. In holding signs with such slogans like "[e]nvironmental racism is alive and well in Riv. Co.," the protestors urged the truck drivers to travel another route. Union Pacific's facility is across from Jurupa Valley High School, and the protestors fear the affect of the diesel soot, which is toxic component of fine-particle pollution that has been linked to stunted lung development in children, on the school's students. The community has ranked among the worst for particulate pollution in the Nation for years. In response, Union Pacific claims that it does not control the truck drivers' actions, because they work for a different company. A community meeting on the issue was scheduled for May 9, 2006.

- **“Industry Seen Opposing Bill Seeking More Vapor Intrusion Data,” Inside Cal/EPA (Apr. 28, 2006).** According to the article, redevelopers and representatives from the building industry will likely oppose legislation that seeks to “better coordinate data on existing and potential vapor intrusion sites statewide.” These groups believe that the legislation will hinder efforts to quickly remediate brownfield sites. In contrast, environmental groups support the Bill, Assembly Bill 2092, that would require the compilation of existing data to “summarize sites with known or potential vapor intrusion from hazardous material releases,” because it would allow a determination of the full extent of vapor intrusion problems to determine the timetables for remediation. The environmentalists believe that California lags behind other states in requiring safeguards for vapor intrusion, which is the leaching of volatile organic compounds into indoor air. The Assembly’s Appropriations Committee will hear the Bill, which environmental justice groups, such as California Communities Against Toxics, support, because they believe that the Bill will help monitor and set regulatory levels for vapor intrusion.
- **“State of Inland Empire Air: Dire,” San Bernardino County Sun (CA Apr. 27, 2006). *See also* “28 California Counties Fail American Lung Association’s Annual State of the Air Clean Air Test; Kern, Riverside Counties Top Bad Air Lists Nationwide; Salinas on Cleanest List; Diesel Trains and Boats Contribute to Dangerous Ozone, Particle Pollution Levels,” Ascribe Newswire (Apr. 26, 2006).** According to the articles, the American Lung Association issued its Seventh Annual State of the Air Report (“Report”) on April 26, 2006. The Report found that California cities and counties were among those with the highest number of days with high air pollution. Specifically, the Report noted that the “worst air in the Nation blankets the Inland Empire,” and California has 15 of the top ozone polluted counties. The Report ranked the cities and counties with the dirtiest air and provided county-level report cards on ozone and particle pollution based on air quality measurements that state and local agencies reported to EPA for the period from 2002 to 2004. The Report found that an increase in truck, train, and ship traffic in Southern California constituted a “profound health problem” due to the reliance on diesel, which is the most deadly component of smog. In addition, the Report determined that particulates from California’s shipping industry caused an estimated 2,400 deaths annually. Accordingly, groups like the Center for Community Action and Environmental Justice call for solutions to the problem, particularly for communities living along freeways or next to ship yards. In addition, the advocates urged EPA to propose more stringent rules for ships, trucks, locomotives, and heavy equipment.
- **“Narrated ‘Toxic Tour’ Visits Sites in Tiverton, Fall River on Saturday,” East Bay & Massachusetts (R.I. Apr. 27, 2006) at D2.** According to the article, residents of the Bay Street neighborhood in Tiverton, Rhode Island conducted a narrated tour of contaminated areas in

Tiverton and Fall River on April 29, 2006 to coincide with a walkathon in Washington, D.C. that day, which the Center for Health, Environment, and Justice sponsored. The tour specifically focused on houses within the neighborhood that have cyanide, arsenic, lead, and other hazardous chemicals in the ground. Over the past 3 1/2 years, the contamination affected more than 100 families within the neighborhood, who could no longer grow flowers or vegetables, let their children play in the yard, or sell their houses. The waste stemmed from the former Fall River Gas Company, which burned coal to make gas.

- **“ATC Line is Bad for City, Mayor Says; Pledges to Fight South Side Route,” Capital Times (WI Apr. 26, 2006) at C1.** According to the article, the Mayor of Madison, Wisconsin pledged on April 26, 2006 to fight against a high-voltage power line that would run through the south side of the city. Specifically, a major new American Transmission Company power line was proposed for Dane County; however, Dave Cieslewicz, Madison’s Mayor, asserted that the power line was not useful for the City. While the Mayor found that the proposal to install the line was reasonable, he articulated that “[a] route that would follow the Beltline would have a significant impact on city neighborhoods, on the economic renaissance that is just starting on the south side, [and] on environmental justice concerns.” The mayor did not want to implement a project that, although beneficial to the entire region, would disproportionately load the cost on Madison.
- **“Environmental Racism in Ringwood,” Record (N.J. Apr. 26, 2006) at L11.** According to the editorial, the Ramapough Indian Tribe (“Ramapoughs”) has become “increasingly more agitated after decades of slow progress in cleaning up the site where Ford Motor [Company (“Ford”)] left thousands of tons of toxic industrial waste.” In fact, the Ramapoughs claim that they have experienced environmental racism due to Ford’s industrial dumping, as well as “EPA’s lax enforcement,” which “reflect a pattern of cruel indifference when the environmental pollution is situated around poor minorities.” The editorial then briefly recounts the history of the environmental justice movement and compares the Ramapoughs current situation to the perceived lack of governmental response to Hurricane Katrina. It concludes by asserting “[c]onsidering the asthma, cancer, lead poisoning and other life-threatening health conditions afflicting the few hundred remaining descendants of Delaware Lenape Ramapoughs living in the Jersey hills, Ford’s actions loom large as the ultimate environmental racism.”
- **“Hard Living in a Toxic City,” Minnesota Daily (Apr. 26, 2006).** According to the editorial, environmental justice should be considered with regard to the 108 Superfund Sites that the Minnesota Pollution Control Agency identified as requiring cleanup or continued maintenance. The editorial asserted that neighborhoods under the poverty line are near

Superfund sites, which “are known for causing infertility, birth defects, respiratory problems, and other health impairment.” The editorial cited specific examples of troublesome sites, including one near the University of Minnesota campus that houses a coal-fired plant that produces the “highest mercury emissions in the region.” The editorial further noted that the plant “also sits on a poor-immigrant concentrated area.” The editorial concluded by urging students to “incorporate environmental justice with environmentalism,” because many of the students live in such neighborhoods.

- **“Panel Wrestles with Lake County Demands,” Pueblo Chieftain (CO Apr. 26, 2006).** According to the article, the Preferred Storage Options Plan Committee (“Committee”) drafted a bill for a feasibility study of water storage options in the Arkansas Valley that failed to address concerns of Lake County, which wishes to have its concerns included within the bill rather than in a side agreement. The Committee’s bill called for a \$4 million feasibility study to study social, economic, and environmental impacts, as well as mitigation. In addition, the bill addressed environmental justice issues and referred to unspecified EPA guidelines on environmental justice. Lake County requested inclusion into the bill to gain the benefits of a federal mitigation study. The Committee hopes to present the bill to the Southeastern Colorado Water Conservancy District Board by May 18, 2006.
- **“Plant Violates Clean Air Act, Lawsuit Says; Coalition: Groups Join in a Bid to Halt a Power Facility Turbine They Say Will Add to Pollution,” Press Enterprise (CA Apr. 26, 2006) at B1. *See also* “Romoland School District Sues AQMD, GE Over Power Plant Construction,” City News Service (Apr. 25, 2006).** According to the articles, a coalition of environmental groups, a school district, a labor group, and residents of Romoland filed a lawsuit in the United States District Court in California against General Electric (“GE”) and the South Coast Air Quality Management District (“AQMD”) on April 25, 2006. The lawsuit alleged that GE’s construction of a power plant in Romoland violates the Clean Air Act (“CAA”) by attempting to gain permit approval through a loophole that does not apply to the project. Specifically, GE’s project utilizes a new turbine design for its proposed 775-megawatt power plant that GE promotes as representing the “latest in clean technology.” However, opponents of the power plant, such as the Center for Community Action and Environmental Justice, believe that the plant will “emit more than double the particulates of a different turbine design that Calpine Corporation proposed earlier. Fine-particle pollution is linked to heart disease, cancer, stunted lung growth in children and premature death.” The lawsuit also asserted that “AQMD issued permits for the construction of the plant without requiring General Electric to provide any offsets for the increased pollution . . . General Electric violated federal law with its plans to dip into pollution credits reserved for facilities such as

hospitals, police, and fire protection services. The power plant does not qualify under the pollution credits program, which is designed to support innovative pollution-reduction technology.” In response, AQMD asserted the EPA will make a decision on pollution credits that may render the lawsuit moot. EPA is expected to decide the issue this spring.

- **“Bill to Improve Water Backed; Higher Fees Sought on Fertilizer Sales,” Monterey County Herald (CA Apr. 26, 2006).** According to the article, residents of San Jerardo and Chualar, California were scheduled to meet with the Agriculture Committee of the California Assembly on April 26, 2006 to discuss ways to improve the contaminated water that has plagued their community. Environmental groups, such as Environmental Justice for Water, have urged the passage of legislation that would “increase a fee on fertilizer sales to fund research on water pollution issues and projects that would address problems such as those in San Jerardo.” The situation has recently worsened due to the increase in fertilizer use, which led to increasing nitrate levels that exceeded the allowable drinking levels. As a result, San Jerardo’s residents stopped drinking running water over five years ago, while fighting to have their running water meet safe standards.
- **“Earth Day Rallies Take Different Spins,” Tennessean (Apr. 23, 2006) at 1B.** According to the article, residents of Dickson County, Tennessee and the Tennessee Coalition for Environmental Justice held a rally to commemorate Earth Day on April 22, 2006. As part of the rally, the participants urged “more action on a real environmental problem affecting their community: cleanup of the Dickson County landfill. Groundwater contaminated from more than four decades of industrial waste being dumped in the landfill has resulted in health problems for nearby residents.” Specifically, the residents called for more public hearings on the contamination, consideration of ways to improve the County’s water system, and more prosecution of environmental crimes. In 2003, state and federal agencies determined that drinking water wells within Dickson County were contaminated with trichloroethylene (“TCE”). TCE, a suspected carcinogen, has been linked to liver and kidney damage, birth defects, and cancer. According to the article, the rally attempted to demonstrate that Dickson County residents were unified in their fight to gain compensation for their loss of health.
- **“Earth Day Seen as a Heavenly Opportunity,” Hartford Courant (Conn. Apr. 22, 2006) at A1.** According to the article, “religious groups have become environmental activists,” as reflected in planned Earth Day activities scheduled for that day. Specifically, the groups planned to promote their vision of how the Earth should be protected. One worship service at the Unitarian Universalist Society East in Manchester, Connecticut focused on environmental justice and protecting the Earth. The church, which holds several services throughout the year that center

on environmental issues, was particularly concerned with reviewing all aspects of congregational life in light of its environmental impact.

- **“Rep. Solis Issues Statement in Honor of Earth Day,” U.S. Fed. News (Apr. 22, 2006).** The article set forth a press release that Congresswoman Hilda L. Solis (D-CA) issued on April 22, 2006 in commemoration of the Earth Day celebration. In calling for the Congress to rededicate itself to better protect the environment and public health, Representative Solis claimed that “[t]his past year the Bush Administration has continued its assault against our environment and public health.” In noting the Administration’s proposal to, among other things, “deny communities access to information about toxics in [the] air, water, and land, she further asserted that “[u]nderserved and minority communities are disproportionately impacted by poor environmental quality, 5.5 million Latinos live within 10 miles of a coal power plant and 68 percent of African Americans live within 30 miles of a coal-fired power plant – the distance within which the maximum effects of the smokestack plume are expected to occur. Rates of obesity are highest among African Americans, Latinos, and underserved communities . . .” She concluded her comments by urging that all families receive clean air to breath and safe drinking water, “regardless of color, race, national origin, or income.”
- **“Board Rejects Plan on Tainted Water; Cleanup: The Proposal Targeted the Apparent Source of the Perchlorate Below Rialto and Colton,” Press Enterprise (CA Apr. 22, 2006) at B8.** According to the article, residents in Rialto and Colton, California met with the Santa Ana Regional Water Quality Control Board (“Board”) on April 21, 2006 to expedite the process of eliminating perchlorate from their groundwater sources. The residents, who were mostly Hispanic, complained that the perchlorate caused illnesses and harm to the communities’ children. In response, the Board voiced its disappointment with the criticism, since perchlorate cleanup represented its top priority. However, the Board noted that it could not adopt plans that activists, such as the Center for Community Action and Environmental Justice, had proposed because the plans were too overinclusive and may affect companies that might not have any liability. The Board informed residents that it would consider adopting a policy committed to cleaning up perchlorates at its May 19, 2006 hearing.
- **“‘Green’ Movement Born Again?” San Diego Union-Tribune (Apr. 21, 2006) at A1.** According to the article, environmental leaders and religious groups have forged new relationships that are aimed at protecting the environment, saving species, reducing emissions of greenhouse gases, and controlling the spread of toxic chemicals. The union between the groups served as the impetus for planned Earth Day activities to raise environmental awareness and preserve natural resources. The article asserted that the Church is informing more Americans about

environmental issues, which represents a “key reason that a wide spectrum of religious people are paying more attention to the effects of pollution and global warming.” Accordingly, Earth Day represented an ideal time for religious groups to demonstrate their concern for the environment. One group, the National Council of Churches, encouraged its members to use Earth Day “to connect the devastation of Hurricane Katrina to environmental justice for the poor.”

- **“EPA Commends Environmental Achievers in New York,” U.S. Fed. News (Apr. 21, 2006).** According to the article, EPA’s Region II office honored 20 individuals and organizations on April 21, 2006 “for their outstanding efforts to protect the environment in New York.” Regional Administrator Alan J. Steinberg presented EPA’s Environmental Quality Awards at a ceremony at EPA’s offices in Manhattan. The Environmental Quality Awards recognizes winners from “non-profit, environmental and community groups, individual citizens, educators, business organizations and members of the new media, as well as from federal, state, local or tribal government and agencies. The honor is given to those individuals or organizations that have made significant contributions to improving the environment in EPA Region II, which covers New York, New Jersey, Puerto Rico, the U.S. Virgin Islands, and seven federally-recognized Indian Nations.” One of the individual citizens who was recognized was Marthy V. Stanislaus, who is a board member of the New York City Environmental Justice Alliance, which is a coalition of community-based organizations that addresses environmental equity and pollution burden issues. Of particular note was Mr. Stanislaus’ successful efforts “to include community planning and financial incentives that focus on low-income neighborhoods in the newly adopted New York brownfields law.”

2. **Recent Litigation.**

- **Louisiana Env'tl. Action Network v. U.S. Army Corps of Eng'rs., No. 06-2020 (E.D. LA Apr. 27, 2006).** This opinion noted from the outset that the case “confronts still another chapter in the havoc and tragedy of Hurricane Katrina.” The Louisiana Environmental Action Network (“LEAN”) and Citizens for a Strong New Orleans East (collectively “Plaintiffs”) sued the United States Army Corps of Engineers (“Corps”) to prohibit the Corps from issuing an emergency permit to Waste Management of Louisiana (“Waste Management”). If issued, the permit would allow the dumping of hurricane construction and demolition debris at the Chef Menteur Highway Site (“Site”), which was near a Vietnamese community in New Orleans East. The Plaintiffs complained about the “lack of public notice and an opportunity to comment.” In addition, Plaintiffs questioned whether an emergency situation existed at the Site. In February 2006, Waste Management submitted an “Emergency Disaster Cleanup Site Request” to the Louisiana Department of Environmental Quality (“LDEQ”) for the Site. LDEQ subsequently waived the Clean

Water Act's ("CWA") requirement to obtain water quality certification for the Site as a condition to perform such work required to abate the emergency, which would lead to discharges into navigable waters. In addition, LDEQ acknowledged that an immediate need existed to dispose of the debris that the storm damage and subsequent demolition of buildings caused. Accordingly, the "emergency-status administrative process model was triggered." On April 14, 2006, the Corps granted Waste Management emergency authority to construct and commence operation of the demolition debris landfill at the Site. In denying Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, the United States District Court for the Eastern District of Louisiana held that the Plaintiffs "failed to carry their burden to show a substantial likelihood of succeeding on the merits of their CWA or [National Environmental Policy Act ("NEPA")] claims." With regard to the CWA claim, the court determined that Corps did make a finding, contrary to the Plaintiffs' claim, that the clean-up qualified as an emergency. Specifically, the court held that the "Corps correctly [insisted] that it properly granted temporary emergency operation, given: (1) the adverse environmental health concerns [that Hurricane Katrina presented]; (2) the economic hardship and logistical problems that would result [if the debris were sent elsewhere]; (3) [the minimal impact to the environment]; and (4) the feasibility of restoring the Site if the emergency permit is revoked." In terms of the NEPA claim, the court found that the Plaintiffs failed to demonstrate that the Corps' emergency authorization was arbitrary and capricious. Specifically, the court found that: (1) the "Corps issued its emergency authorization pursuant to its General Permit for Emergency Authorizations within the New Orleans District;" (2) the permit was issued pursuant to the appropriate Corps' regulations; (3) all General Permits must comply with NEPA and undergo public notice and comment, as well as NEPA analysis, prior to issuance; (4) the General Permit does not replace normal permitting approval; (5) the General Permit allows the performance of the "preliminary work imperative in emergency situations;" and (6) Waste Management must still apply for a permit or restore the Site to its pre-project condition. The court also concluded that the Corps correctly relied upon LDEQ's finding that "Louisiana is in a state of emergency as a result of the widespread damage caused by Hurricane Katrina and Rita' and that 'the hurricanes created conditions requiring immediate action to prevent irreparable damage to the environment and serious threats to life and safety,'" because "[o]ne need only look around to know the tragic truth of these statements and findings." Finally, the court determined that Plaintiffs "also failed to satisfy their burden of proving they will suffer irreparable harm as a result of the Corps' emergency authorization." The court held that LEAN's perceived claims of harm that may result from the materials at the Site were "speculative" and "[m]ore importantly, any perceived harm resulting

from plaintiffs not being permitted to participate by notice and comment on the emergency authorization is hardly irreparable.”

- **In re: G-P Gypsum Corp. Assocs. Facility, No.II-2005-05, 2006 EPA CAA Title V LEXIS 5 (Apr. 4, 2006).** EPA issued this Order Granting in Part and Denying in Part a Petition for Objection to Permit that the New Jersey Department of Environmental Protection (“Department”) issued to the G-P Gypsum Corporation (“Gypsum”) on July 28, 2005, pursuant to Title V of the Clean Air Act (“CAA”). The South Jersey Environmental Justice Alliance (“Petitioner”) filed a petition, dated September 14, 2005, that asked EPA to object to the issuance of the state operating permit (“Permit”) to Gypsum, a gypsum wallboard manufacturing facility in Camden, New Jersey. Petitioner based its objection to the Gypsum Permit on six grounds, including a claim that the Department “did not adequately address the environmental justice issues raised by Petitioner as is required by state and federal environmental justice executive orders and Title VI of the Civil Rights Act.” Specifically, Petitioner claimed that the State Executive Order on environmental justice and Executive Order 12898 were violated, because the Permit failed to protect the area where Gypsum was located, which was a “low-income minority community that has a disproportionately high percentage of asthma and other lung related diseases.” In addition, Petitioner alleged that an Air Toxics Study that the Department conducted revealed that the neighborhood had a high concentration of fine particulate matter. Accordingly, Petitioner urged EPA to object to the Permit “to curb further air quality degradation to the area.” In denying the petition to object to the Permit due to environmental justice concerns, EPA determined that “the Petitioner’s environmental justice concerns do not demonstrate that the [Gypsum] Title V permit fails to properly identify and comply with the applicable requirements of the CAA.” The opinion conceded that “[e]nvironmental justice issues can be raised and considered in a variety of actions carried out under the CAA, as for example when EPA or a delegated state issues a New Source Review (“NSR”) permit.” However, Title V, unlike NSR permits, does not impose new or substantive emission control requirements. Instead, Title V requires that the operating permit include all underlying applicable requirements. In addition, Title V includes public participation provisions as well as monitoring, compliance certification, and reporting obligations, which assure compliance with all applicable requirements. Accordingly, the Permit complied with Title V, which led EPA to deny Petitioner’s claim. However, the opinion concluded that Petitioner may file a “complaint under Title VI and EPA’s Title VI regulations if [it] believes that the [Department, which is subject to Title VI requirements as a recipient of EPA financial assistance,] discriminated against [it] in violation of those laws by issuing the permit to [Gypsum]. The complaint, however, must meet the jurisdictional criteria that are described in EPA’s Title VI regulations . . . for EPA to accept it for investigation.”

- In re: Onyx Env'tl. Servs., No. V-2005-1, 2006 EPA CAA Title V Lexis 4 (Feb. 1, 2006).** EPA issued this Order Granting in Part and Denying in Part a Petition for Objection to Permit that the Illinois Environmental Protection Agency ("IEPA") issued to Onyx Environmental Services ("Onyx") on November 6, 2003, pursuant to Title V of the CAA, and the Illinois Clean Air Act Permitting Program ("CAAPP"). On February 18, 2004, EPA received a petition from the Sierra Club and American Bottom Conservancy ("Petitioners") that asked EPA to object to the issuance of the state operating permit ("Permit") to Onyx, which operated a hazardous waste combustor. Petitioner based its objection to the Permit on ten grounds, including a claim that the Permit "violates the Agency's commitments and obligations to address environmental justice issues." Specifically, Petitioners stated: that the "Onyx facility is located in an environmental justice area in Sauget, Illinois; that granting Onyx permits to continue to operate its toxic waste incinerator is an environmental justice issue; that Onyx has one of the worst compliance records in Illinois; . . . that it is surrounded by other facilities that are also unable to comply with Clean Air Safeguards[;] . . . that [EPA] has the authority to object to the proposed Title V permit and block issuance of any other permits on the basis that this facility presents an unreasonable threat of harm and that the threat is disproportionately borne by low-income and minority residents[;] . . . [and] that [EPA] can establish permit limits to avoid disparate impact on low-income and minority communities [pursuant to Executive Order 12898, the CAA, and the Resource Conservation and Recovery Act ("RCRA")]. In setting forth their claims, Petitioners rely on a December 1, 2000 memorandum that then-EPA General Counsel, Gary Guzy, issued ("Memorandum") that outlines "EPA's authority to address environmental justice issues." Petitioners asserted that the Memorandum specified that under RCRA's Omnibus Provision, RCRA § 3005(c)(3), 42 U.S.C. § 6925(c)(3), "denial of a permit is appropriate 'to address the following health concerns in connection with hazardous waste management facilities that may affect low-income communities or minority communities: (1) cumulative risks due to exposure from pollution sources in addition to the applicant facility; (2) unique exposure pathways . . . and (3) sensitive populations.' Petitioners argue that a low-income and minority community located near the Onyx incinerator is suffering from all three high risk-scenarios. [Accordingly,] Petitioners conclude that, because Onyx is unwilling or unable to comply with public health protections, RCRA § 3005(c)(5) mandates that EPA close the Onyx facility." Although EPA acknowledged that the "omnibus provision may be used to implement Executive Order 12898," EPA dismissed this argument, because the omnibus provision is "clearly limited" to RCRA permits and objections to a CAA Title V permit "are limited to noncompliance with applicable requirements under the [CAA] Accordingly, [EPA] may not object to

the issuance of a Title V permit on the basis of the omnibus provision in RCRA.” Petitioners also asserted that EPA failed to comply with “its legal obligations to consider and resolve the environmental justice issues implicated by Onyx’s proposed permits. Petitioners argue that the [EPA] failed to complete a health assessment before it or the State issued draft permits for public review. Additionally, the Petitioners state that EPA did not assure early and ongoing public opportunities and failed to require IEPA to consider environmental justice concerns.” EPA appeared to dismiss these arguments because Petitioners failed to raise them in a timely manner. Accordingly, the petition was denied on the environmental justice arguments.

3. **Regulatory/Legislative/Policy.**

The following items were most noteworthy:

A. **Federal Congressional Bills and Matters.**

- **House Resolution 5225, “Diabetes Prevention Access and Care Act,” introduced on April 27, 2006 by Representative Diana Degette (D-CO). Status: Referred to House Committee on Energy and Commerce.** The Bill amends the Public Health Service Act to prevent and cure diabetes and promote and improve the care of individuals with diabetes for the reduction of health disparities within racial and ethnic minority groups, including the African-American, Hispanic American, Asian American and Pacific Islander, and American Indian and Alaskan Native communities. Among other things, the Bill calls for the research of certain activities, including researching behavior, obesity, and environmental factors that may contribute to the increase in type 2 diabetes in minority populations. In addition, the Bill specifies that the Director of the National Institutes of Health “expand, intensify, conduct, coordinate, and support research and other activities with respect to pre-diabetes and diabetes, particularly type 2, in minority populations.” The Bill further calls for the expansion of the National Diabetes Education Program and establishes grants to “supplement clinical research programs to assist such programs in obtaining the services of health professionals and other resources to provide specialized care for children with type 1 and type 2 diabetes.”
- No *Miscellaneous House and Senate Congressional Record Mentions of Environmental Justice* were identified for this time period.
- **Federal Register Notices.**
 - **EPA, Considerations for Developing Alternative Health Risk Assessment Approaches for Addressing Multiple Chemicals,**

Exposures and Effects; External Review Draft,” 71 Fed. Reg. 26,365 (May 4, 2006). EPA announced that Eastern Research Group, Inc., one of its contractors for its external scientific peer review, will convene an independent panel of experts to peer review the external review draft document, “Considerations for Developing Alternative Health Risk Assessment Approaches for Addressing Multiple Chemicals, Exposures and Effects; External Review Draft” (EPA/600/R06/013A) that EPA’s National Center for Environmental Assessment prepared. EPA has not formally disseminated the document, and it does not represent any Agency policy or determination. A peer review panel workshop will be held on May 25-26, 2006 to allow interested comments to comment on the document. The draft document represents one of EPA’s efforts to address issues related to cumulative health risk assessment. The issue of properly estimating cumulative risk has particularly been highlighted by “[s]everal reports and environmental justice concerns published over the past 11 years.”

— **EPA, Rulemaking on Section 126 Petition from North Carolina to Reduce Interstate Transport of Fine Particulate Matter and Ozone; Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone; Revisions to the Clean Air Interstate Rule; Revisions to the Acid Rain Program, 71 Fed. Reg. 25,328 (Apr. 28, 2006).** EPA announced actions to address the interstate transport of nitrogen oxides (NO_x) and sulfur dioxide (SO₂) emissions that contribute significantly to nonattainment and maintenance problems related to the National Ambient Air Quality Standards (“NAAQS”) for fine particulate matter (“PM 2.5”) and 8-hour ozone. Specifically, EPA took 2 actions. First, EPA denied a petition from the State of North Carolina that requested EPA to find that SO₂ and NO_x emissions from electric generating units (“EGUs”) in 13 States significantly contribute to PM 2.5 and/or 8-hour ozone nonattainment and maintenance problems. The petition also requested that EPA establish control requirements to prohibit such significant contributions. EPA denied the petition, because the EPA’s action promulgated federal implementation plans (“FIP”) for all jurisdictions that the Clean Air Interstate Rule (“CAIR”) covered to address interstate transport. The FIPs will regulate EGUs in the affected States and achieve the emissions requirements that CAIR established until States have approved state implementation plans (“SIPs”) to achieve reduction. In addition, EPA revised the final CAIR to clarify certain provisions and took final action on reconsideration of the definition of EGU as it relates to solid waste incinerators. Pursuant to Executive Order 12898, EPA considered whether the rule have disproportionate negative impacts on minority or low-income populations. EPA “expects this rule will

lead to reductions in air pollution and exposure generally. In addition, EPA has conducted an air quality modeling analysis to estimate the changes in exposure of minority and low-income populations to ambient concentrations of PM 2.5 as a result of implementation of a cap-and-trade program similar to CAIR: the Acid Rain Program. The analysis shows that each racial, ethnic, and income-level group studied is projected to experience similar average improvement in ambient concentrations of PM 2.5 in the eastern U.S. (where the vast majority of the emission reductions took place) as a result of the Acid Rain Program in 2010. No disproportionately high and adverse human health or environmental effects of the Acid Rain Program were found for any minority, low-income, or other population. For these reasons, negative impacts to these sub-populations that appreciably exceed similar impacts to the general population are not expected.” EPA’s action will take effect on June 27, 2006.

- **EPA, Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule): Reconsideration, 71 Fed. Reg. 25,304 (Apr. 28, 2006).** EPA announced that it has taken action on five specific issues upon which it granted reconsideration in two separate notices issued in December 2005, following its initial promulgation of a final “Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone,” *i.e.*, CAIR. The CAIR requires certain upwind States to reduce emissions of NO_x and/or SO₂ that significantly contribute to nonattainment of, or interferes with, downwind States in relation to the PM 2.5 and/or 8-hour ozone NAAQS. In taking its action, EPA considered whether CAIR may have disproportionate negative impacts on minority or low-income populations, as Executive Order 12898 mandates. EPA “expects CAIR to lead to reductions in air pollution and exposures generally. Therefore, EPA concluded that negative impacts to these subpopulations that appreciably exceed similar impacts to the general population are not expected. For the same reasons, EPA is drawing the same conclusion for today’s notice to reconsider certain aspects of the CAIR.” EPA’s reconsideration will take effect on June 27, 2006.
- **EPA, Inclusion of Delaware and New Jersey in the Clean Air Interstate Rule, 71 Fed. Reg. 25,288 (Apr. 28, 2006).** EPA announced that it would include Delaware and New Jersey in CAIR for PM 2.5, based on its assessment that the States contribute significantly to a downwind State’s nonattainment. Under CAIR, EPA believes that upwind States that contribute to a downwind PM 2.5 nonattainment area are potentially contributing significantly to nonattainment in the downwind State. In addition, EPA proposed to augment CAIR’s analytical approach by supplementing the air quality step within the contribution analysis.

Accordingly, this augmented approach necessitated the inclusion of Delaware and New Jersey into CAIR for annual SO₂ and NO_x requirements. Pursuant to Executive Order 12898, EPA “considered whether the CAIR program inclusive of the New Jersey and Delaware rule may have disproportionate negative impacts on minority or low-income populations. The Agency expects the CAIR program to lead to reductions in air pollution and exposures generally. For this reason, negative impacts to these sub-populations that appreciably exceed similar impacts to the general population are not expected.”

- **EPA, 2-Phenylphenol and Salts Risk Assessments; Notice of Availability, 71 Fed. Reg. 24,685 (Apr. 26, 2006).** EPA announced the availability of its risk assessment(s), preliminary risk reduction options, and related documents for the pesticide 2-phenylphenol (“orthophenylphenol”) and salts. In soliciting public comment on these documents by June 26, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a Reregistration Eligibility Decision (“RED”) for orthophenylphenol and salts through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to orthophenylphenol and salts, compared to the general population.”
- **EPA, Chlorine Dioxide Draft Risk Assessments; Notice of Availability, 71 Fed. Reg. 24,683 (Apr. 26, 2006).** EPA announced the availability of its risk assessment, preliminary risk reduction options, and related documents for the pesticides chlorine dioxide, sodium chlorite, and sodium chlorate (for antimicrobial uses). In soliciting public comment on these documents by June 26, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for chlorine dioxide through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to chlorine dioxide, compared to the general population.”
- **EPA, Didecyl Dimethyl Ammonium Chloride Risk Assessments and Preliminary Risk Reduction Options; Notice of Availability, 71 Fed. Reg. 24,679 (Apr. 26, 2006).** EPA announced the availability of its risk assessments, preliminary risk

reduction options, and related documents for the Group 1 Quat Cluster pesticide didecyl dimethyl ammonium chloride. In soliciting public comment on these documents by June 26, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for didecyl dimethyl ammonium chloride through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to didecyl dimethyl ammonium chloride, compared to the general population.”

— **EPA, 2-(Thiocyanomethylthio)benzothiazole Risk Assessment; Notice of Availability, 71 Fed. Reg. 24,677 (Apr. 26, 2006).**

EPA announced the availability of its risk assessments, preliminary risk reduction options, and related documents for the pesticide 2-(Thiocyanomethylthio)benzothiazole (“TCMTB”). In soliciting public comment on these documents by June 26, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for TCMTB through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to TCMTB, compared to the general population.”

— **EPA, Alkyl Dimethyl Ammonium Chloride Risk Assessments and Preliminary Risk Reduction Options; Notice of Availability, 71 Fed. Reg. 24,675 (Apr. 26, 2006).**

EPA announced the availability of its risk assessments, preliminary risk reduction options, and related documents for the Group II Quat Cluster of structurally similar quaternary ammonium compounds know as alkyl dimethyl ammonium chloride (“ADBAC”). In soliciting public comment on these documents by June 26, 2006, EPA requested that the public suggest risk management ideas or proposals to address the identified risks. EPA is developing a RED for ADBAC through a modified four-phase public participation process to ensure that all pesticides meet current health and safety standards. To help address potential environmental justice issues, EPA seeks, among other things, “information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical, unusually high exposure to ADBAC, compared to the general population.”

- **DOI, Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Community Development on the Las Vegas Paiute Indian Tribe Reservation, Clark County, NV, 71 Fed. Reg. 21,034 (Apr. 24, 2006).** The Department of Interior’s (“DOI”) Bureau of Indian Affairs (“BIA”) announced its intent to gather information to prepare an Environmental Impact Statement (“EIS”). The EIS will assess the environmental consequences of proposed federal actions related to the proposed project, which will provide an expanded economic base for the Las Vegas Paiute Indian Tribe, while simultaneously providing needed housing for tribal and non-tribal members in the greater Las Vegas area. Proposed federal actions that BIA and cooperating agencies will undertake include the approval of a lease, issuance of rights-of-way grants, permits, and/or other agreements for the construction, operation, and maintenance of residential and commercial development, as well as necessary infrastructure, on the Las Vegas Paiute Indian Reservation in Clark County, Nevada. Comments on, among other things, areas of resource concern that the EIS will address, such as environmental justice, are due by May 30, 2006. Public scoping meetings will be held on May 15-16, 2006.

B. State Congressional Bills and Matters.

- **California, Assembly Bill 2490, introduced on February 23, 2006 by Assembly Member Ira Ruskin (D-District 21). Status: Rereferred to Assembly Committee on Appropriations on April 26, 2006.** The Bill would enact the California Toxic Release Inventory Program Act of 2006 to direct the California Environmental Protection Agency to create a California Toxics Release Inventory (“TRI”) now that the Bush Administration has proposed to greatly reduce the federal TRI reporting requirements. TRI provides information that private citizens and community groups rely on to keep informed about toxic polluters and releases near their homes and schools. The Bill noted that reduction of federal TRI reporting “would create further environmental justice challenges by placing an unfair burden for residents in low-income areas, where chemical plants and other polluters are often located.” The Bill would require the TRI Program to impose the same or more stringent requirements as the federal Emergency Planning and Community Right-to-Know Act of 1986 (“EPCRA”) within California, including, but not limited to, any regulations adopted pursuant to EPCRA. The Bill would require the Act’s implementation by July 1, 2007.
- **Florida, House Bill 7131, introduced on March 15, 2006 by the House Committee on Environmental Regulation. Status: Senate Amendment on May 3, 2006.** The Bill amends various provisions of the Florida

Brownfield Redevelopment Act. The Bill increases the amount of credit, from 35 percent to 50 percent, that may be applied against intangible personal property tax and corporate income tax for the voluntary cleanup costs of a contaminated brownfield or dry-cleaning site. In addition, the Bill increases the percentage and amount of tax credit that a taxpayer may receive in the final year of the cleanup as an incentive to complete the cleanup. Finally, the Bill also amended Section 376.80(4), Brownfield Program Administration Process, of the Florida Statute to require “[l]ocal governments or persons responsible for rehabilitation and redevelopment of brownfield areas [to] establish an advisory committee or use an existing advisory committee that has formally expressed its intent to address redevelopment of the specific brownfield area for the purpose of improving public participation and receiving public comments on rehabilitation and redevelopment of the brownfield area, future land use . . . community safety, and environmental justice.”

- **Hawaii, Senate Bill 2145, introduced on January 23, 2006 by Senator Colleen Hanabusa (D-District 21). Status: Enrolled to Governor on May 8, 2006.** The Bill will appropriate \$82,325, or so much thereof as may be necessary for Fiscal Year 2006-2007 (“FY 2006-2007”), out of the general revenues of the State for the environmental council to contract with a consultant to facilitate and coordinate the State’s environmental justice activities, which will include: (1) defining environmental justice through educational community outreach activities; (2) developing and adopting a guidance document that addresses environmental justice in all phases of the Environmental Impact Statement (“EIS”) process; (3) recommending to update the EIS process; and (4) conducting educational and community outreach activities. In addition, the Office of Environmental Quality Control shall contract with the University of Hawaii Environmental Center to conduct a comprehensive review of the State’s current EIS process. The Bill earmarked \$108,675, or so much thereof as may be necessary for FY 2006-2007, for this EIS review. The Act is scheduled to take effect on July 1, 2006.
- **Texas, House Bill 104C, introduced on April 25, 2006 by Representative Yvonne Davis (D-District 111). Status: Referred to House Committee on State Affairs on April 27, 2006.** The Bill, which relates to the Rights for the Poor, states in its policy and purpose section that: “(1) all forms of human oppression be dismantled; and (2) all people, especially the poor, have the right to pursue life, liberty, and happiness without institutional barriers. . . . The legislature finds that racism, sexism, classism, imperialism, and discrimination against disabled people must be addressed and eliminated if the poor are to escape impoverishment.” In addition, Section 8 of the Bill addressed Environmental Quality and found that “(1) an unhealthy economic community has repercussions on the physical and mental health of that community’s residents; and (2)

thousands of African-Americans, Latinos and Anglos are dying needlessly and prematurely as toxic chemicals are released into the air and the drinking water of impoverished communities. (b) [t]he legislature recognizes that the poor must be protected from environmental racism that disproportionately targets impoverished communities with toxic waste sites and other elements that adversely affect the atmosphere and health of persons in those communities. (c) [i]t is the intent of the legislature that: (1) toxic waste sites be cleaned up immediately; and (2) environmentally unsafe facilities in impoverished communities that have been victimized by environmental racism be cleaned up, removed, or replaced.”

- **State Regulatory Alerts.**

- No noteworthy **State Regulatory Alerts** were identified for this time period.